

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION No.13064 OF 2018

ORDER:

This Criminal Petition, under Section 439 of the Code of Criminal Procedure, 1973, is filed by the petitioner/Accused Officer, for grant of bail in Crime No.06/ACB-ADB/2018 of A.C.B., Adilabad Range, registered for the offence punishable under Section 7(a)(b) of the Prevention of Corruption (Amendment) Act, 2018.

2. Heard the learned counsel for the petitioner/A.O., the learned Special Public Prosecutor for A.C.B. Cases representing the respondent and perused the record.

3. Learned counsel for the petitioner/A.O. would submit that the petitioner/A.O. is an innocent person and he is falsely implicated in this case; that the petitioner/A.O. did not receive any money from the *de facto* complainant; that the *de facto* complainant has already received the payment for his transportation bills and no official favour was pending with the petitioner/A.O. to demand and receive the bribe, as alleged by the prosecution, and ultimately, prayed to allow this application.

4. On the other hand, the learned Special Public Prosecutor opposed the grant of bail to the petitioner/A.O. and contended that on two occasions, large amount was paid to the petitioner/A.O. and the same was recorded with the help of a secret camera; that during the course of investigation, the A.C.B. officials seized the part bribe amount of Rs.50,000/- from the possession of the

petitioner/A.O.; that the investigation is still in progress and there is *prima facie* case against the petitioner/A.O. and ultimately, prayed to dismiss the application.

5. The material placed on record reveals that the *de facto* complainant was Manager of M/s. Seventy Seven Express Transportation Company. Under the Sheep Rearing Development Programme, the company was given a contract by the Government to transport the sheep from the purchasing center to the houses of the beneficiaries. Under the agreement entered between the company and the District Veterinary & Animal Husbandry Officer (DVAHO), Mancherial, the amount agreed to be paid to the company for transportation is Rs.0.54 ps per sheep per kilometre. The company was allotted the contract to transport sheep which were purchased at Sholapur and Ahmednagar of Maharashtra State to beneficiaries of Mancherial district. The company instructed the *defacto complainant* to look after the said transportation work. The company submitted bills for transportation made in the year 2017-18 to DVAHO, Mancherial, who has to prepare bills and credit the amount in the account of the company after approval of the District Collector. The petitioner/A.O., being the DVAHO, Mancherial, demanded bribe for crediting the transportation charges into company's account. As the *de facto* complainant did not give the bribe amount, the petitioner/A.O. cancelled his tender and allotted the same to another person. The *de facto* complainant approached this Court and obtained stay order. The petitioner/A.O. demanded him to give bribe of 2% on the sanctioned contract bills for not cancelling the contract and to credit the bill amount. He got credited two

bills amounting to Rs.42,82,267/- into the account of the company after the *de facto* complainant agreed to pay an amount of Rs.1,00,000/- as bribe, and he further threatened that unless the amount is paid, he would not process the bills due.

The *de facto* complainant approached the A.C.B. officials and informed the same. They provided a secret camera (sky gadget). On 20.10.2018, an amount of Rs.50,000/- was paid to the petitioner/A.O. and the same was recorded with the help of the secret camera. Again, on 12.11.2018, on the demand of the petitioner/A.O., the *de facto* complainant paid the remaining amount of Rs.50,000/-, and a trap was laid by the ACB officials on that day. The same was also recorded with the help of the secret camera. Further, the hand wash of the petitioner/A.O. was collected and it turned into pink colour. A panchanama was conducted and the tainted amount of Rs.50,000/- was recovered and all other related material was collected under cover of a panchanama on that day and the petitioner/A.O. was remanded to judicial custody on 13.11.2018.

6. As seen from the material placed on record, the entire conversation of demand and acceptance of Rs.1,00,000/- on different dates is supported by documentary evidence and the same has been recorded in the secret camera. The punishment for the alleged offence is stringent. The allegations are grave. When so much of credential and incriminating material is collected by the Investigating Officer in the course of investigation, particularly, recording the conversation of demand, acceptance and payment of Rs.1,00,000/- by way of sky gadget camera, it can be safely concluded that there is a *prima facie* case against the

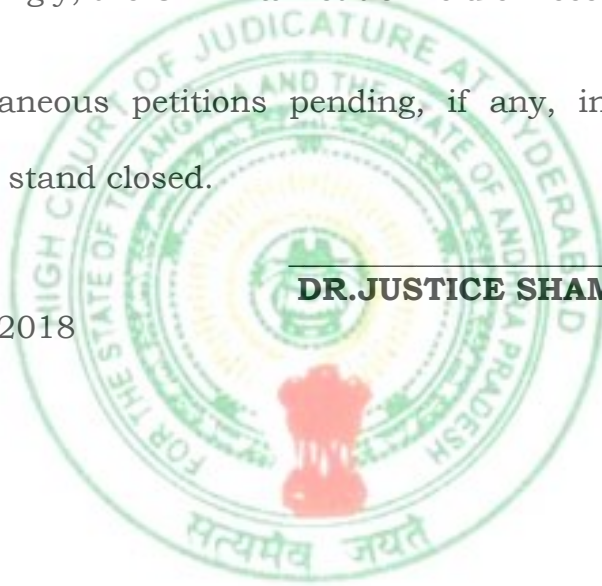
petitioner/A.O. In the event of his release on bail pending investigation/trial, as the case may be, it would certainly cause hindrance in the investigation as well as the trial of the case. Further, the petitioner/A.O. would try to influence the witnesses and win over them. Further, if the petitioner/A.O. is released on bail, the witnesses cannot freely and fearlessly depose in the course of investigation or trial of the case. Therefore, it is not appropriate to allow the application and the Criminal Petition is liable to be dismissed.

7. Accordingly, the Criminal Petition is dismissed.

8. Miscellaneous petitions pending, if any, in this Criminal Petition shall stand closed.

DR.JUSTICE SHAMEEM AKTHER

Date : 18.12.2018
AMD



THE HON'BLE DR.JUSTICE SHAMEEM AKTHER



CRIMINAL PETITION No.13064 OF 2018

Date: 18.12.2018

AMD